

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ROBERT WARD GARRISON,

Plaintiff,

v.

DOUG WADDINGTON, *et al.*,

Defendants.

Case No. C05-5487 RJB/KLS

ORDER DENYING PLAINTIFF'S  
MOTION TO COMPEL ACA,  
ORDER DIRECTING ACA TO  
SHOW CAUSE

This 42 U.S.C. § 1983 civil rights action has been referred to United States Magistrate Judge Karen L. Strombom pursuant to Title 28 U.S.C. § 636(b) and Local MJR 3 and 4. Before the Court is Plaintiff's Motion to Have ACA Bring Its Case File to This Court. (Dkt. # 67). For the reasons set forth below, Plaintiff's motion shall be denied; how the ACA shall be directed to show cause why it has not complied with the Subpoena Duces Tecum.

**I. DISCUSSION**

By subpoena duces tecum served on the Director for the Associated Counsel for the Accused (ACA), in Seattle, Washington, Plaintiff has requested the production of: "ACA Case File No. 325103 - City of Seattle v. Robert Ward Garrison (All Documents Obtained Under Case Number 325103)."

1 Plaintiff states that the Director has not produced the documents requested, stating that the file has been  
2 misplaced. Plaintiff asks the Court to order the ACA to file the file and deliver it to the Court by a  
3 specific deadline.

4 Failure by any person without adequate excuse to obey a subpoena served upon that person may  
5 be deemed a contempt of the court from which the subpoena issued. Fed.R.Civ.P. 45(e). However, prior  
6 to considering the merits of Plaintiff's motion to compel and/or any request for sanctions, the Director of  
7 the ACA is entitled to provide the Court with an explanation for any failure to comply with the  
8 subpoena.

## 10 II. CONCLUSION

11 Accordingly, it is **ORDERED** as follows:

- 12 1. Plaintiff's motion to compel (Dkt. # 67) shall be **DENIED** at this time;
- 13 2. The Clerk of the Court shall send a copy of this Order and a copy of Plaintiff's motion  
14 (Dkt. # 67) to the Director, ACA, 191 Prefontaine Place, #200, Seattle, Washington. The  
15 Director may file a response to Plaintiff's motion, showing cause why he/she has not  
16 complied with the Subpoena Duces Tecum dated December 8, 2006; such response shall  
17 be filed with this Court **on or before April 20, 2007**; and
- 18 3. The Clerk of the Court shall send a copy of this Order to Plaintiff and to counsel for  
19 Defendants.

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21 DATED this 27th day of March, 2007.

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25 Karen L. Strombom  
26 United States Magistrate Judge  
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